

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A22-1028**

In re the Marriage of:  
Jodi Ann Mussehl, petitioner,  
Respondent,

vs.

Fred Richard Mussehl,  
Appellant.

**Filed May 30, 2023  
Affirmed  
Larson, Judge**

Mille Lacs County District Court  
File No. 48-FA-21-1280

Lori Lynn Athmann, Jovanovich, Dege, & Athmann, P.L.L.P., St. Cloud, Minnesota (for respondent)

Fred Richard Mussehl, Little Falls, Minnesota (pro se appellant)

Considered and decided by Larson, Presiding Judge; Reilly, Judge; and Reyes, Judge.

## NONPRECEDENTIAL OPINION

**LARSON**, Judge

Appellant Fred Richard Mussehl (husband) challenges a portion of the district court's judgment dissolving his marriage to respondent Jodi Ann Mussehl (wife).<sup>1</sup> Husband argues the district court did not divide the parties' marital property equitably and fairly. Because the district court did not abuse its discretion when it divided the parties' marital property, we affirm.

### FACTS

The parties married in April 1997. Just over 24 years later, wife filed a petition for dissolution. In April 2022, the district court held a bench trial.<sup>2</sup> According to the district court's order, the district court heard testimony from husband, wife, and wife's son-in-law.<sup>3</sup>

In May 2022, the district court entered a judgment dissolving the parties' marriage. In doing so, the district court found the parties had the following assets:<sup>4</sup> (1) a property in Milaca, Minnesota; (2) a property in Brainerd, Minnesota; (3) a pontoon boat; (4) a fifth-wheel camper; (5) a 2015 Ram 3500 Crew Cab truck; (6) a 2018 Chevrolet Traverse car;

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<sup>1</sup> Wife did not file a brief in this appeal and we ordered that the appeal proceed under Minn. R. Civ. App. P. 142.03, which provides that if a respondent fails to file a brief, then the case shall be determined on its merits.

<sup>2</sup> The appellate record does not contain the transcript of these proceedings.

<sup>3</sup> The district court stated wife's son-in-law testified "as to the work performed at the parties' cabin property in Brainerd, Minnesota."

<sup>4</sup> The district court found that "[n]either party [was] employed," but "[t]he parties represent[ed] to the Court that both [were] recipients of Social Security Income." The district court did not otherwise describe the parties' current or former income.

(7) individual bank accounts each party maintained since their separation; (8) a worker's compensation settlement from wife's former employer; (9) a retirement account from wife's former employer; and (10) various miscellaneous items. The district court determined the individual bank accounts, the worker's compensation settlement, and a portion of the retirement account were nonmarital property.<sup>5</sup>

The district court then divided the marital property between the parties. The district court: (1) ordered the parties to sell the Milaca property, first use the proceeds to pay the parties' shared debt, and then divide the remaining proceeds evenly;<sup>6</sup> (2) ordered the parties to sell the fifth-wheel camper and divide the proceeds evenly; (3) awarded wife the Chevrolet Traverse; (4) awarded husband the Ram 3500 Crew Cab; and (5) divided the marital interest in the retirement account evenly.

At issue in this appeal, the district court divided the pontoon and Brainerd property as follows. Starting with the pontoon, early in the proceedings the district court issued an order allowing wife to sell the pontoon. But wife was unable to sell the pontoon due to damage the pontoon sustained when husband stored it outside during the winter. Wife argued during the bench trial that the district court should order husband to rehabilitate the pontoon. The district court agreed and ordered husband to rehabilitate the pontoon into a

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<sup>5</sup> The district court awarded each party their individual bank accounts, then determined the worker's compensation settlement and a portion of the retirement account were wife's nonmarital property.

<sup>6</sup> Wife also requested reimbursement for expenses incurred following the parties' separation. The district court awarded reimbursement, finding the request "fair and equitable." The district court ordered husband to reimburse wife from his share of the Milaca property proceeds.

saleable condition at his own expense. The district court directed husband to deliver the pontoon to wife following its rehabilitation, so that she could sell it. The district court ordered that the parties first use the proceeds to pay off the loan for the pontoon, then to divide the remaining proceeds evenly.

Regarding the Brainerd property, the parties disputed whether it was a marital asset, its value, and how the district court should distribute it. Husband claimed the Brainerd property was his nonmarital asset, that it should be valued at \$250,000, and that the district court should order the parties to sell it. Wife asserted the Brainerd property was a marital asset, it should be valued at \$60,000 using the agreed-upon assessor's estimated value,<sup>7</sup> and the district court should award her the property. Wife requested that the district court award her the Brainerd property so she could "remain geographically close to her daughter, with whom [wife] resided . . . while recovering from [a] 2021 [injury]." The district court found the Brainerd property was a marital asset, valued it at \$60,000 using the assessor's estimated value, and awarded it entirely to wife. The district court found this was "fair and equitable" and determined that husband's "unsupported valuation of the [Brainerd] property not credible."

This appeal follows.

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<sup>7</sup> In November 2021, the parties entered a mediated settlement agreement, which designated an assessor to value the Milaca and Brainerd properties. This agreed-upon assessor valued the Brainerd property at \$60,000 as of December 2021.

## DECISION

Husband argues the district court did not equitably and fairly divide the parties' marital property.<sup>8</sup> Husband asks this court to award him the Brainerd property and the pontoon. We are not persuaded.

Husband, who bore the burden to provide a transcript on appeal, failed to order the district court transcripts. *See Bender v. Bender*, 671 N.W.2d 602, 605 (Minn. App. 2003) (“On appeal, the duty to provide a transcript is on the party seeking review of the rulings being challenged.”); *see also Fischer v. Simon*, 980 N.W.2d 142, 144 (Minn. 2022) (noting the duty to order a transcript applies to self-represented appellants). Generally, absent a transcript, we review only whether the district court’s findings support its conclusions of law; we do not review the findings themselves. *See, e.g., Bender*, 671 N.W.2d at 605 (stating that “[w]hile the lack of a transcript does not automatically require dismissal of an entire appeal, lack of a transcript does limit the scope of appellate review to whether the district court’s conclusions of law are supported by its findings of fact”); *Sela Invs. Ltd., LLP v. H.E.*, 909 N.W.2d 344, 349 (Minn. App. 2018) (citing this aspect of *Bender*).

We review a district court’s division of marital property for an abuse of discretion. *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002). “A district court abuses its discretion

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<sup>8</sup> Husband appears to contend the district court erred when it determined certain assets were nonmarital property. Although husband does not explicitly state the district court erred in how it designated marital and nonmarital property, husband’s list of “marital property” conflicts with the district court’s conclusions. Since husband did not adequately brief this issue, it is forfeited. *See Dep’t of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to address an inadequately briefed issue); *Brodsky v. Brodsky*, 733 N.W.2d 471, 479 (Minn. App. 2007) (applying *Wintz* in a family law appeal).

by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted). We will not set aside the district court’s findings unless they are clearly erroneous. *Antone*, 645 N.W.2d at 100; *see also In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021) (“We will not conclude that a factfinder clearly erred unless, on the entire evidence, we are left with a definite and firm conviction that a mistake has been committed.” (quotation omitted)). A district court’s valuation of an item of property is a factual finding. *Maurer v. Maurer*, 623 N.W.2d 604, 606 (Minn. 2001). We “will affirm the district court’s division if it ha[s] an acceptable basis in fact and principle even though [we] might have taken a different approach.” *Passolt v. Passolt*, 804 N.W.2d 18, 25 (Minn. App. 2011) (quotation omitted), *rev. denied* (Minn. Nov. 15, 2011).

“Upon a dissolution of a marriage . . . the [district] court shall make a just and equitable division of the marital property of the parties” after considering all relevant factors. Minn. Stat. § 518.58, subd. 1 (2022); *see also Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997) (“All property obtained by either spouse during the marriage is presumed to be marital property, regardless of the form of ownership.”). These factors include “the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party.” Minn. Stat. § 518.58, subd. 1. “[W]hile the district court must make a just and equitable division of the marital property, an equitable division of marital property is not necessarily an equal

division.” *Sirek v. Sirek*, 693 N.W.2d 896, 900 (Minn. App. 2005) (quotation omitted); *see also Kaste v. Kaste*, 399 N.W.2d 128, 130-31 (Minn. App. 1987) (affirming 57% to 43% division of marital property in light of wife’s health, financial, educational, and occupational difficulties), *rev. denied* (Minn. Mar. 13, 1987).

Here, applying the district court’s valuation of the Brainerd property, the district court awarded approximately 56% of the marital property to wife and approximately 44% to husband. Other than the Brainerd property, the district court divided most marital assets evenly, including the proceeds from selling the Milaca property, pontoon, and fifth-wheel camper, as well as the marital interest in the retirement account. The district court also gave each party one vehicle, with husband receiving the Ram 3500 Crew Cab—valued at \$31,782—and wife receiving the Chevrolet Traverse—valued at \$16,226. Although husband asserted the Brainerd property should be valued at \$250,000, the district court valued the Brainerd property at \$60,000, in accordance with the assessor’s estimated value. Considering this lower value, the district court found it “fair and equitable” to award the Brainerd property exclusively to wife so she could “remain geographically close to her daughter, with whom [wife] resided with while recovering from [her] 2021 [injury].”

The only marital asset the district court did not divide evenly was the Brainerd property. But in awarding the Brainerd property to wife, the district court expressed concern for wife’s health and needs given the “debilitating injury [she] suffered” in March 2021. *See* Minn. Stat. § 518.58, subd. 1 (listing “health” and “needs” among relevant factors for division of marital property). Although the district court did not divide the parties’ property equally, we have affirmed similar property divisions when one party

suffered from health problems. *See Kaste*, 399 N.W.2d at 130-31. Since the district court's division "has an acceptable basis in fact and principle," it did not abuse its discretion. *See Passolt*, 804 N.W.2d at 25.

**Affirmed.**